

Nos. 25-3030, 25-3034, 25-3293

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

American Federation of Government
Employees, AFL-CIO, *et al.*,

Plaintiffs-Appellees,

v.

Donald J. Trump, *in his official capacity as
President of the United States, et al.*,

Defendants-Appellants.

Nos. 25-3030, 25-3293

On Appeal from the U.S. District
Court for the Northern District of
California

D.C. No. 3:25-cv-03698-SI

*In re Donald J. Trump, in his official capacity
as President of the United States, et al.*,

Petitioners-Defendants.

No. 25-3034

On Petition for Writ of
Mandamus to the U.S. District
Court for the Northern District of
California

D.C. No. 3:25-cv-03698-SI

**DECLARATION OF STACEY M. LEYTON IN SUPPORT OF UNOPPOSED
MOTION FOR LEAVE TO EXCEED WORD LIMIT**

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**Additional counsel and affiliations on signature pages of motion*

DECLARATION OF STACEY M. LEYTON

I, Stacey M. Leyton, declare as follows:

1. I am an attorney at Altshuler Berzon, LLP. I represent Plaintiffs-Appellees/Real Parties in Interest American Federation of Government Employees et al. (“Plaintiffs”). I am a member in good standing of the bars of the States of California and Washington and this Court. I make this declaration based on my personal knowledge and if called to testify, could and would testify as stated herein.

2. This appeal arises out of Plaintiffs’ challenge to the President’s “Workforce Optimization” Executive Order directing all agencies of the federal government to engage in a “transformation” that includes reorganizing the government and conducting “large-scale” reductions-in-force (“RIFs”), and the implementation of that Executive Order including directives and approvals by the Office of Management and Budget (“OMB”) and Office of Personnel Management (“OPM”) requiring agencies to immediately implement the President’s orders to reorganize and reduce across the government.

3. The District Court entered a temporary restraining order (“TRO”) on May 9 and a preliminary injunction on May 22, enjoining further implementation of the Executive Order, a Memorandum by OMB and OPM, and the plans of 19 federal agencies (called “Agency RIF and Reorganization Plans”) submitted in response to those directives.

4. On May 9, Defendants filed a notice of appeal from the temporary restraining order (Ninth Circuit Case No. 25-3030) and a mandamus petition

challenging the District Court's expedited discovery order (No. 25-3034). On May 12, Defendants filed a motion for an emergency stay pending appeal in this Court and, four days later, a similar stay application in the United States Supreme Court. Although Defendants asked the District Court to reconsider its discovery order, and the District Court granted that request, Defendants did not withdraw their mandamus petition or their emergency stay motion in Case No. 25-3034.

5. On May 23, Defendants filed an appeal from the preliminary injunction order (No. 25-3283) and a supplemental emergency stay motion in all three Ninth Circuit cases. While Defendants filed a letter withdrawing their stay application in the United States Supreme Court, they did not withdraw their appeals from the TRO or the mandamus petition, nor did they withdraw their emergency stay applications in this Court, in Case Nos. 25-3030 and 25-3034.

6. On Saturday, May 24, at 1:07 p.m., this Court entered an order directing Plaintiffs to file a response to the emergency motion by 10:00 a.m. on Tuesday, May 27.

7. Plaintiffs' counsel have worked diligently to prepare this opposition brief over the holiday weekend. Plaintiffs, which include separately represented parties, are diligently preparing a single consolidated response brief.

8. This case involves an extensive factual record of more than 1,500 pages of evidence presented in the District Court. It raises complex constitutional and statutory issues concerning the separation of powers between the executive and legislative branches, as well as significant issues under the Administrative Procedure Act. Defendants also challenge the federal courts' jurisdiction and the

scope of the injunction. The issues raised are of enormous importance to the public. Defendants largely seek to litigate the important merits issues on this emergency timeline.

9. Plaintiffs' counsel have diligently attempted to streamline their response to Defendants' emergency motion, but believe that additional words are needed to enable Plaintiffs to fully address the issues and arguments raised by Defendants, which in turn will assist this Court in ruling on this emergency motion. Without being permitted to submit a response of 9000 words, Plaintiffs will be unable to adequately respond to the multiple issues raised by Defendants' emergency motion.

10. On May 26, I e-mailed counsel for Defendants to ask if they would consent to Plaintiffs filing an opposition of up to 9,000 words. Defendants' counsel responded that so long as Plaintiffs would not oppose a proportional increase of the word limit for Defendants' reply, if needed, Defendants would take no position on the request.

11. A true and correct copy of Plaintiffs' proposed response to Defendants' emergency motion is filed herewith.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed this 27th day of May 2025 in San Francisco, California.

/s/ Stacey M. Leyton

Stacey M. Leyton